



Docket No.: U0131.70009US00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Geoffrey H. Jenkins et al.
Serial No.: 10/017,475
Confirmation No.: 5215
Filed: December 14, 2001
For: METHOD AND APPARATUS FOR RAPIDLY STERILIZING
SMALL OBJECTS
Examiner: E.L. McKane
Art Unit: 1744

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I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: 3/15/06

Janet D'Annunzio-Ellis
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RESPONSE TO RESTRICTION REQUIREMENT/ELECTION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Restriction Requirement set forth in the Office Action mailed November 15, 2006, Applicants hereby elect Group IV, claims 23-25, 27 and 29, for continued examination, with traverse.

Applicants traverse the Restriction Requirement for the reasons provided below:

I. The restricted claims have already been extensively examined.

Groups I-IV of this application have been examined in connection with the issuance of *three* substantive Office Actions (dated August 12, 2005, December 28, 2005, and June 15, 2006). The latter two Office Actions were issued by the present Examiner. As evidenced by the three substantive Office Actions issued by the Patent Office (two issued by the present Examiner), the subject matter of Groups I-IV has been extensively searched and examined.

It is notable that many of the restricted claims were examined *in their identical form* in the last Office Action. For example, independent claim 11 and corresponding dependent claims 12 and 50-51 (Group II); independent claim 23 and corresponding dependent claim 24 (Group IV); independent claim 48 (Group I) were *not amended* in Applicants' last response. Further, while amendments have been made to other claims during prosecution, the overall subject matter covered by the claims has not changed.

Accordingly, Applicants respectfully submit that no serious burden exists in the continued examination of the claims of all groups, because the claims have already been extensively searched and examined. According to MPEP §803, "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits" (emphasis added). Thus, the restriction requirement is improper and should be withdrawn.

II. The Office Action fails to meet the burden to support the restriction requirement.

The Office Action indicates that a serious burden exists in examining all claims "due to their recognized divergent subject matter." However, with respect to Groups I and II, the Office Action states that the claims of both groups are classified in class 250, subclass 455.11, and no other evidence establishing burden pursuant to MPEP §808.02 is presented. Thus, the Restriction Requirement is not properly supported pursuant to MPEP §803. For this additional reason, the restriction requirement is improper and should be withdrawn.